

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JORDAN ROCKS MUSIC, THE THICK  
PLOTTENS MUSIC, WB MUSIC CORP.,  
STEREO SUPERSONIC MUSIC,  
UNIVERSAL-POLYGRAM  
INTERNATIONAL PUBLISHING, INC.,  
JOELSONGS, CONTROVERSY MUSIC,  
CHAPPEL & CO., INC., and IRVING  
CAESAR MUSIC CORP.,

Plaintiffs,

v.

MIKADO, INC. and KYLE IRWIN  
YOSHIMURA,

Defendants.

No. C-07-0036

STIPULATION OF SETTLEMENT AND  
ORDER OF DISMISSAL

The Complaint in the above-captioned action having been filed on January 8, 2007 by Plaintiffs Jordan Rocks Music, et al. ("Plaintiffs") seeking relief for willful infringements of their copyrights, and the Defendants Mikado, Inc. and Kyle Irwin Yoshimura (collectively "Defendants") having each been formally served with the Summons and Complaint on January 23, 2007; and the Defendants having been fully informed of the allegations of Plaintiffs and duly considered Plaintiffs' Complaint and the likelihood and costs of litigation, the parties have

STIPULATION OF SETTLEMENT AND  
ORDER OF DISMISSAL (No. C-07-0036 ) – 2

**Perkins Coie LLP**  
1201 Third Avenue, Suite 4800  
Seattle, WA 98101-3099  
Phone: 206.359.8000  
Fax: 206.359.9000

1 agreed, and hereby stipulate, that this action may be settled and dismissed with prejudice on the  
 2 following terms:  
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4 1. Defendants shall pay to the American Society of Composers, Authors and  
 5 Publishers ("ASCAP"), on behalf of Plaintiffs, the sum of \$7,200 ("the Settlement Amount") in  
 6 strict accordance with the following schedule: (i) \$2,700.00 upon execution by Defendants of  
 7 this Stipulation of Settlement, but in any event not later than March 9, 2007; and (ii) the balance  
 8 of \$4,500.00 in six (6) monthly installments, as follows:  
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<u>INSTALLMENT DUE DATE</u>	<u>INSTALLMENT AMOUNT</u>
Upon execution of this Stipulation of Settlement, but no later than March 9, 2007	\$2,700.00
April 9, 2007	\$750.00
May 9, 2007	\$750.00
June 9, 2007	\$750.00
July 9, 2007	\$750.00
August 9, 2007	\$750.00
September 9, 2007	\$750.00

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 37 2. All payments made by Defendants pursuant to Paragraph 1 above shall be by  
 38 check payable to the order of ASCAP; provided, however, that if a payment is returned for  
 39 insufficient funds, any replacement payment and all subsequent payments due hereunder shall be  
 40 by certified, cashier's check or bank check payable to ASCAP. The initial payment shall be  
 41 delivered to Angela R. Martinez, Esq. of Perkins Coie at its offices at 1201 Third Avenue, Suite  
 42 4800, Seattle, Washington 98101-3099. The payment shall be delivered so that it arrives no later  
 43 than March 9, 2007. All subsequent payments shall be timely delivered to ASCAP at its offices  
 44 at 2690 Cumberland Parkway, Suite 490, Atlanta, Georgia 30339-3913, ATTENTION: Douglas  
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STIPULATION OF SETTLEMENT AND ORDER  
 OF DISMISSAL (NO. C-07-0036) – 2

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1 Jones. The payments shall be delivered so that they arrive no later than the due dates set forth in  
2 Paragraph 1 above.  
3

4 3. Contemporaneously with the execution of this Stipulation of Settlement, ASCAP  
5 shall offer and, no later than March 9, 2007, Defendants shall accept and execute the ASCAP  
6 "General License Agreement - Restaurants, Taverns, Nightclubs, and Similar Establishments" for  
7 Ohana, located at 2207 1st Avenue in Seattle, Washington ("ASCAP License") for the term  
8 commencing January 1, 2007, at the annual rate of \$1,198 and they shall comply with all the  
9 terms and conditions of that agreement. Payment of license fees owed for the year 2007 at the  
10 currently applicable rate set forth above is included in the Settlement Amount; payment of  
11 license fees for any period subsequent to 2007 pursuant to the license agreement shall be made in  
12 accordance with the terms of the ASCAP License and is not encompassed within the payment  
13 terms of this Stipulation of Settlement.  
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15 4. Upon timely receipt of the amounts owed pursuant to Paragraph 1 above,  
16 Defendants shall be deemed to have paid ASCAP an amount representing license fees for Ohana  
17 for all periods through December 31, 2007 and an additional sum representing damages and legal  
18 expenses incurred by ASCAP on behalf of Plaintiffs in the prosecution of this action; provided  
19 that in no event or circumstance shall ASCAP owe any reimbursement of, or be obligated to  
20 return, any portion of the Settlement Amount, even if the operating policy of Ohana changes  
21 such that a lower license fee would be applicable in 2007 than the current rate, or if the  
22 establishment is sold or closes.  
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24 5. In the event that Defendants shall default in making any payments provided for in  
25 Paragraph 1 above; or any of Defendants' checks tendered in payment of the Settlement Amount  
26 is dishonored by Defendants' bank for any reason (including, but not limited to, insufficient  
27 funds); or in the event that Defendants file for bankruptcy; or in the event that Defendants fail to  
28 give notice to ASCAP, as required by Paragraph 6 below; then on ten (10) days notice of such  
29 default or other event, and provided such default is not cured within the ten-day period, Plaintiffs  
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1 shall be entitled to reopen this action for the purpose of seeking entry of judgment against  
 2 Defendants in the amount of \$10,000 less any sums paid pursuant to Paragraph 1 above, plus  
 3 statutory interest accruing from the date of entry of such judgment; and Plaintiffs may pursue all  
 4 remedies provided by law to collect such judgment. In the event that Defendants file for  
 5 bankruptcy, any balance on the Settlement Amount or any subsequent judgment shall be deemed  
 6 a non-dischargeable debt.  
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12 6. In the event that Defendants enter into or execute a contract for the sale, transfer  
 13 or assignment of the establishment known as Ohana in Seattle, Washington or its liquor license  
 14 during the period covered by the payment provisions of Paragraph 1 above, Defendants shall  
 15 within ten (10) days of executing or entering into such a contract give notice to ASCAP of said  
 16 pending contract and shall, in advance of such sale, transfer or assignment, cause arrangements  
 17 to be made for the payment of any balance then owed pursuant to the terms of this Stipulation of  
 18 Settlement or any subsequent judgment not later than the closing of such sale, transfer or  
 19 assignment or, subject to ASCAP's prior written consent, in accordance with such additional  
 20 terms and conditions that are not any less favorable and provide ASCAP with as much or more  
 21 protection as provided under this Stipulation of Settlement or any subsequent judgment, such  
 22 consent not to be unreasonably withheld.  
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34 7. Any notice required by Paragraph 6 hereof shall be sent to ASCAP, regular mail,  
 35 addressed as set forth in Paragraph 2 above, or any other address that ASCAP may designate,  
 36 with a copy sent via facsimile copier to (770) 805-3410. Any notice required by Paragraph 5  
 37 hereof shall be sent to Defendants, regular mail, with a courtesy copy to their attorneys,  
 38 addressed as follows: Mr. Kyle Irwin Yoshimura, Mikado, Inc., 2207 1st Avenue, Seattle,  
 39 Washington 98121; and Robert Over, Esq. of Keller Rohrback at its offices at 1201 Third  
 40 Avenue, Suite 3200, Seattle, Washington 98101.  
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49 8. Upon entry of the Court's order below, this action shall be dismissed with  
 50 prejudice, subject only to the right of Plaintiffs to move to reopen the action upon the occurrence  
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1 of any of the events described in Paragraph 5 above, for the purpose of entering judgment in  
2  
3 accordance with the terms of this Stipulation of Settlement.  
4

5 **PERKINS COIE LLP**  
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7  
8 By                     /S/                      
9 Harry H. Schneider, Jr., WSBA No. 9404  
10 Angela R. Martinez, WSBA No. 38326  
11 Attorneys for Plaintiffs  
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14 Dated: March 9th, 2007.  
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17 **KELLER ROHRBACK LLP**  
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21 By:                     /S/                      
22 Robert Over, WSBA No. 27576  
23 Attorneys for Defendants  
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26 Dated: March 8, 2007.  
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MIKADO, INC.

By: /S/  
KYLE IRWIN YOSHIMURA  
Title: Officer of Mikado, Inc.  
Dated: March       , 2007.

STATE OF WASHINGTON )  
                                  ) SS.  
COUNTY OF King )

Personally appeared before me, on the 8th day of March, 2007, the undersigned authority in and for the aforesaid jurisdiction, Kyle Yoshimura, who acknowledged to me under oath that he is the President of MIKADO, INC., with authority therefrom, and verifies the foregoing Stipulation of Settlement; and that the facts stated therein are true and correct.

Witness my hand and official seal.

SEAL

/S/  
Notary Public  
Sworn before me this 8th day of  
March, 2007

STIPULATION OF SETTLEMENT AND ORDER  
OF DISMISSAL (NO. C-07-0036) – 6

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STATE OF WASHINGTON )  
 ) SS.  
COUNTY OF King )

Personally appeared before me, on the 8th day of March, 2007, the undersigned authority in and for the aforesaid jurisdiction, Kyle Yoshimura, who acknowledged to me under oath that he is P, and verifies the foregoing Stipulation of Settlement; and that the facts stated therein are true and correct.

Witness my hand and official seal.

*SEAL*

Notary Public  
Sworn before me this 8th day of  
March, 2007

Dated: March 9, 2007.

COUNTY OF DOUGLAS )

Witness my hand and official seal.

Sworn before me this 9 day of  
March, 2007



1  
2 **SO ORDERED:**  
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7 DATED this 22nd day of March, 2007.  
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11 RICARDO S. MARTINEZ  
12 UNITED STATES DISTRICT JUDGE  
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